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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,511	05/19/2004	Tadd E. Vanyo	RA 5566 (33012/373/101)	7139
27516 7590 05/01/2007 UNISYS CORPORATION MS 4773 PO BOX 64942 ST. PAUL, MN 55164-0942			EXAMINER HOFFLER, RAHEEM	
			ART UNIT 2165	PAPER NUMBER
			MAIL DATE 05/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/849,511

Applicant(s)

VANYO ET AL.

Examiner

Raheem Hoffler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## Detailed Action

### *Response to Amendment*

1. The Office Action has been issued in response to amendment filed 26 February 2007. Claims 1-21 are pending. As a result of amendment, Claim objections made to Claims 1, 16, 19, & 21 have been withdrawn. Applicant's arguments have been carefully and respectfully considered in light of the instant amendment, and are not persuasive. Accordingly, this action has been made FINAL.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 3, 8, 10, and 13-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3,

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8, 10, 12, 14 and 15 of copending Application No. 10849473 (Vanyo et al) in view of sharing a common Inventors and Assignees. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

<b>Claim 1 of U.S. PG Pub No. 10849473</b>	<b>Claim 1 of this application</b>
An apparatus comprising:	An apparatus comprising:
A user terminal which generates a first service request,	A user terminal which generates a user request,
A publicly accessible digital data communication network responsively coupled to said user terminal,	A publicly accessible digital data communication network responsively coupled to said user terminal,
A legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request,	A legacy data base management system having access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network, and
A legacy data base incompatible with, but responsively coupled to, said data base management system, and A facility responsively coupled to said legacy data base management system and said legacy	a stored procedure having a sequence of command script statements responsively coupled to said legacy data base management system which is executed in response to said user request.

data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request.	
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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Note the comparison above, Claim 1 of U.S. PG Pub No. 10849473 teaches of An apparatus comprising a user terminal which generates a first service request, a publicly accessible digital data communication network responsively coupled to said user terminal, a legacy data base management system responsively coupled to said user terminal via said publicly accessible digital data communication network which receives said first service request, a legacy data base incompatible with, but responsively coupled to, said data base management system and a facility responsively coupled to said legacy data base management system and said legacy data base which permits said legacy data base management system to access said legacy data base in response to said receipt of said first service request. Claim 1 of this application claims a number of elements that are commonly shared by U.S. PG Pub No. 10849473. This application differs in that it teaches of a stored procedure having a sequence of command script statements responsively coupled to said legacy data base management system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the legacy database taught by

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Vanyo et al and include a sequence of command script statements responsively coupled to said legacy database management system executed in response to said user request because of the opportunity to define, initialize, and execute stored procedures.

Depending claims 2, 4-5, 7, 9, 12, and 17-20 further limit the claims made by this application that are not met by U.S. PG Pub No. 10849473. For example, claim 4 of this application recites the limitation "The apparatus ... wherein said at least one data base further comprises an OLEDB data base."

#### **Claim Rejections – 35 USC 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Eastwick et al (US Patent No. 6240417B1).

As for Claim 1, Eastwick et al clearly teaches a user terminal which generates a user request (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22)); b. a publicly accessible digital data communication network responsively coupled to said user terminal (e.g., "any communication connection"; (col. 3, lines 65-67 – col. 4, lines 1-3)); c. a legacy data base management system having

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access to at least one data base responsively coupled to said user terminal via said publicly accessible digital data communication network (col. 1, lines 56-59; col. 3, lines 13-25); and c. a stored procedure having a sequence of command script statements responsively coupled to said legacy data base management system which is executed in response to said user request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

As for Claim 2, Eastwick et al teaches a user terminal generates a second user request which causes said legacy data base management system to add parameters to said stored procedure (col. 6, lines 55-61; col. 7, lines 20-27).

As for Claim 3, Eastwick et al teaches at least one database further comprises an ODBC database (col. 3, lines 13-16; col. 7, lines 33-36).

As for Claim 4, Eastwick et al teaches at least one database further comprises an OLEDB database (col. 3, lines 13-16; col. 7, lines 33-36). OLEDB can be an equivalent of ODBC and used in its place. OLEDB is commonly known in the art by definition as an open specification that can interface with all types of data files on a computer network.

As for Claim 5, Eastwick et al teaches a legacy database management system further comprises BIS (col. 1, lines 56-59; col. 3, lines 13-25; whereas Eastwick's

teachings of a software interface in conjunction with legacy data in a database reads on Applicant's claim language involving a BIS).

As for Claim 6, Eastwick et al teaches a. transmitting a service request requesting access to said command language scripted stored procedure from said user terminal to said legacy data base management system via a publicly accessible digital data communication network (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22); b. receiving said service request by said legacy data base management system (e.g., integration component; col. 2, lines 23-33); c. accessing said command language scripted stored procedure in accordance with said service request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)); and d. transferring an appropriate response from said legacy data base management system to said user terminal via said publicly accessible digital data base management system (col. 1, lines 59-67- col. 2, lines 1-10).

As for Claim 7, Eastwick et al teaches executing said command language script corresponding to said service request (e.g., database integrator; (col. 1, lines 59-67- col. 2, lines 1-10)(col. 3, lines 25-51)(col. 4, lines 34-42)).

As for Claim 8, Eastwick et al teaches a publicly accessible digital data communication network further comprises the Internet (col. 3, lines 65-67 – col. 4, lines 1-3).



As for Claim 9, Eastwick et al teaches transferring a second service request from said user terminal to said legacy database management system which causes said accessing step to enter parameters into said command language scripted stored procedure (e.g., input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claims 10, 14, and 20 differ from Claim 5 in that claim 10 is a method, claim 14 is an apparatus, and claim 20 is an improvement whereas claim 5 is apparatus claim. Thus, claims 10, 14, and 20 are analyzed as previously discussed with respect to claim 5 above.

As for Claim 11, Eastwick et al teaches a. permitting means for permitting a user to transfer a service request via a publicly accessible digital data communication network (col. 3, lines 65-67 – col. 4, lines 1-3); b. offering means responsively coupled to said/permitting means via said publicly accessible digital data communication network for offering legacy data base management services involving access to at least one data base having a scripted command language stored procedure (col. 1, lines 56-59; col. 3, lines 13-25); and c. accessing means responsively coupled to said offering means for accessing said scripted command language stored procedure in response to said service request (e.g., navigator/terminal emulator; col. 4, lines 42-44, 56-62; col. 6, lines 39-67- col. 7, lines 1-5).

Claim 12 differs from Claim 7 in that claim 12 is an apparatus whereas claim 7 is a method claim. Thus, claim 12 is analyzed as previously discussed with respect to claim 7 above.

As for Claim 13, Eastwick et al teaches a generating means located within said permitting means for generating a second service request (e.g., navigator; col. 4, lines 56-62; col. 6, lines 39-67- col. 7, lines 1-5).

As for Claim 15, Eastwick et al teaches a permitting means further comprises an industry standard personal computer (e.g., workstation; (col. 2, lines 11-14)(col. 3, lines 65-67- col. 4, lines 1-3)(col. 4, lines 4-22)).

Claim 16 differs from Claim 11 in that claim 16 is an improvement whereas claim 11 is an apparatus claim. Thus, claim 16 is analyzed as previously discussed with respect to claim 11 above.

As for Claim 17, Eastwick et al teaches a plurality of variables loaded into said scripted command language stored procedure in response to said service request (e.g., input/parameters; col. 6, lines 55-61; col. 7, lines 20-27).

Claim 18 differs from Claim 2 in that claim 18 is an improvement whereas claim 2 is apparatus claim. Thus, claim 18 is analyzed as previously discussed with respect to claim 2 above.

Claim 19 differs from Claim 8 in that claim 19 is an improvement whereas claim 8 is method claim. Thus, claim 19 is analyzed as previously discussed with respect to claim 8 above.

Claim 21 differs from Claim 1 in that claim 21 is an apparatus for permitting a user to access a stored procedure whereas claim 1 is an apparatus claim. Thus, claim 21 is analyzed as previously discussed with respect to claim 1 above.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-21 have been fully considered but are not persuasive in view of the original grounds of rejection.

With respect to applicant's argument that:

"... Though Applicants' claims have differing limitations and scopes, each is based upon the key feature of a "stored procedure", located in the legacy data base which is executed by the legacy data base management system in response to a request by the user terminal coupled via a publicly accessible network. Eastwick, on the hand, does not have the disclosed and claimed "stored procedure". Therefore, the Examiner has attempted to read this limitation onto "database integrator" 314 disclosed by Eastwick. The "database integrator" 314 of Eastwick is readily distinguishable from Applicants' "stored procedure" in that the "database integrator" 314 is located within memory 302 of workstation 102 (see Fig. 3 and corresponding description at column 4, lines 23-29), rather than in the legacy database. As a result, "database integrator" 314 is executed by workstation 102 rather than by a legacy data base management system. Thus, the "database integrator" 314 is not coupled to workstation 102 by a network, but is coupled through an internal memory bus... it is clear that Eastwick cannot meet this limitation, because it does not have the claimed "publicly accessible" coupling network. Claim 2 depends from claim 1 and is further limited by "wherein said user terminal generates a second user request which causes said legacy data base management system to add parameters to said stored procedure"

Examiner is not persuaded. The above argument is not persuasive because the relied upon reference of Eastwick et al does in fact teach of stored procedures taught by Applicant. Eastwick et al teaches a data integrator, which performs the tasks being executed by the Applicant's stored procedures, by converting commands received by an ODBC interface into server program-specific commands to manipulate the user interface of a server program (see col. 1, lines 59-67; col. 2, lines 1-10; col. 3, lines 25-51; col. 4, 34-42). Examiner maintains that "database integrator" 314 can also be coupled with the legacy database management system, as taught by Eastwick in (see col. 3, lines 52-62) in which it is stated that "...one skilled in the art will appreciate that an alternative embodiment may provide a client program with access to a legacy DBMS that is on the same computer." Parameters added to a stored procedure or command is taught within (col. 6, lines 55-61; col. 7, lines 20-32), providing for user input.

With respect to applicant's argument that:

"Claim 5 depends from claim 4 and further limits the claimed data base management system. Because the Examiner realizes that Eastwick cannot meet this limitation, she irrelevantly states: .... whereas Eastwick's teachings of a software interface in conjunction with legacy data in a database reads on Applicant's claim language involving a BIS. This finding is legally irrelevant, because it does not address Applicants' claimed invention. Furthermore, even if relevant, it is inadequate as a matter of law, because it does not show the "identical invention in as complete detail as is contained in the claim" as is explicitly required by MPEP 2131."

Examiner is not persuaded and maintains that Eastwick et al teachings of a software interface read upon Applicant's claim language involving a BIS. Eastwick's software interface utilizes various high-level instructions whereby the database user may manipulate the database to generate human-readable data presentations.

With respect to applicant's argument that:

“  
Claim 6 is an independent method claim having four key steps. Claim 6 is "method of utilizing a user terminal to access a command language scripted stored procedure within a legacy data base management system having at least one data base". The claim requires that the claimed "stored procedure" be located "with a legacy data base management system". Ignoring Applicants' claimed invention, the Examiner clearly erroneously finds:

Eastwick et al. teaches a. transmitting a service request requesting access to said command language scripted stored procedure....

The request (if any) is not "transmitted" as found by the Examiner, because the alleged "stored procedure" is located within workstation 102, as explained above. The second claimed step requires "receiving said service request by said legacy data base management system". This step is not found in Eastwick, because the request (if any) must be modified by "database integrator" 314 before transfer from workstation 102. As a result, the claimed "request" is neither "transmitted" (i.e., step a) or "received" (i.e., step b) as claimed, but is simply converted by "database integrator" 314 within workstation 102.”

Examiner is not persuaded and maintains that Eastwick et al teachings read upon Applicant's claim language. Within Claim 6 (a) Applicant refers to a service request accessing said stored procedure as being transmitted from “a user terminal to said legacy database management system via a publicly accessible digital data communication network” whereas Eastwick et al teaches communicating a request for stored commands between a user terminal and a legacy DBMS via a “communication connection”. Eastwick's communication connection reads on Applicant's claim language of a publicly accessible digital data communication network. The legacy DBMS receives the transmitted request from the database integrator by way of its server program, which accesses the requested data and provides an appropriate response by displaying the appropriate data on its user interface (see col. 3, lines 13-51).

With respect to applicant's argument that:

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"Claim 11 is an independent apparatus claim having three "means-plus-function" limitations. The second element is "offering means responsively coupled to said permitting means via said publicly accessible digital data communication network for offering legacy data base management services involving access to at least one data base having a scripted command language stored procedure". It specifically requires that the claimed "stored procedure" be located within the claimed "data base" of the claimed "offering means". Nevertheless, in finding the third claimed element, the Examiner completely ignore claim element b and again relies upon functions performed within workstation 102. As explained above, the claimed "stored procedure" is executed by the claimed "offering means".

Examiner is not persuaded and maintains that Eastwick et al teachings read upon Applicant's claim language. Eastwick et al teaches of accessing at least one database having a scripted command language stored procedure (see col. 4, lines 23-34). Examiner maintains rejection of claim 11.

### **Conclusion**

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raheem Hoffer whose telephone number is (571) 270-1036. The examiner can normally be reached on 7:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

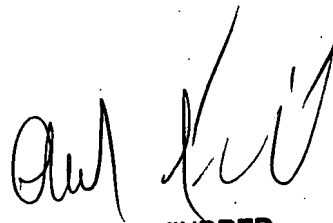
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RH



Raheem Hoffler



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